

JS 44 (Rev. 12/07, NJ 5/08)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

CHARLOTTE CASTELONIA

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire  
Kimmel & Silverman, P.C.  
30 E. Butler Pike  
Ambler, PA 19002  
(215) 540-8888

**DEFENDANTS**

NCO FINANCIAL SYSTEMS, INC.

County of Residence of First Listed Defendant \_\_\_\_\_

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known) \_\_\_\_\_

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C SECTION 1692

Brief description of cause:

Fair Debt Collection Practices Act

**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ \_\_\_\_\_

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE \_\_\_\_\_

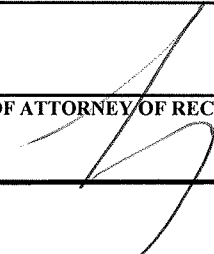
DOCKET NUMBER \_\_\_\_\_

Explanation: \_\_\_\_\_

DATE

03/05/12

SIGNATURE OF ATTORNEY OF RECORD



## UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 48 Monarch Dr., Newburgh NY 12550

Address of Defendant: 507 Prudential Rd. Horsham PA 19044

Place of Accident, Incident or Transaction: \_\_\_\_\_  
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐ No ☒

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases (Please specify) 15 V.S.C. § 1692

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases (Please specify)

I, Craig Thor Kimmel, (Check Appropriate Category)  
counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 03/05/12

Attorney-at-Law

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

57100

Attorney I.D.#

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 03/05/12

Attorney-at-Law

57100

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

Charlotte Castelonia :

CIVIL ACTION

v.

NCO Financial Systems, Inc. :

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ☒ (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

03/05/12

Date

Craig Mark Kimmel

Attorney-at-law

Charlotte Castelonia

Attorney for

2155408888

Telephone

877-788-2864

FAX Number

kimmel@creditlaw.com

E-Mail Address

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CHARLOTTE CASTELONIA,

Plaintiff

v.

NCO FINANCIAL SYSTEMS, INC.,

Defendant

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**Case No.:**

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

**(Unlawful Debt Collection Practices)**

**COMPLAINT**

CHARLOTTE CASTELONIA (“Plaintiff”), by her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against NCO FINANCIAL SYSTEMS, INC. (“Defendant”):

**INTRODUCTION**

1. Count I of Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.* (“FDCPA”).

**JURISDICTION AND VENUE**

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28

1 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising  
2 under the laws of the United States.

3  
4 3. Defendant conducts business and has an office in the Commonwealth  
5 of Pennsylvania, and therefore, personal jurisdiction is established.

6 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

7  
8 **PARTIES**

9 5. Plaintiff is a natural person residing in Newburgh, New York 12550.

10 6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C.  
11 §1692a(3).

12  
13 7. Defendant is a national debt collection company with its corporate  
14 headquarters located at 507 Prudential Road, Horsham, Pennsylvania, 19044-  
15 2308.

16 8. Defendant is a debt collector as that term is defined by 15 U.S.C. §  
17 1692a(6), as Defendant regularly collects on portfolios of delinquent debts and  
18 charged-off consumer debts from credit card issuers; consumer finance  
19 companies; medical, telecommunications and utilities providers; and debt buyers,  
20 and it repeatedly contacted Plaintiff when seeking to collect a consumer debt.  
21

22 9. Defendant acted through its agents, employees, officers, members,  
23 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
24 representatives, and insurers.  
25

**FACTUAL ALLEGATIONS**

11. Defendant and others it retained constantly and continuously placed harassing and abusive collection calls, beginning on or before October 1, 2011 and continuing through October 31, 2011, to Plaintiff seeking and demanding payments for alleged consumer debt.

12. Upon information and belief, the alleged debt Defendant was seeking to collect arose out of transactions primarily for personal, family, or household purposes.

13. The debt Defendant was seeking to collect is a consumer debt.

14. Defendant collects, and attempts to collect, debts incurred, or alleged to have been incurred, for personal, family, or household purposes on behalf of creditors using the U.S. Mail, telephone and/or internet.

15. Defendant and others it retained placed calls to Plaintiff's home telephone.

16. Plaintiff received repeated and continuous telephone calls from the following phone number: 800-477-1827, which the undersigned has confirmed is a telephone number belonging to Defendant.

17. In addition to calling Plaintiff, Defendant sent numerous letters seeking and demanding payment of an alleged debt.

18. Defendant was seeking to collect a bill for utility services at Plaintiff's

1 prior residence from December 1, 2004.

2 19. The statute of limitations for a utility debt can vary, depending on the  
3 date that the debt was last paid or went into default, the law governing the  
4 limitations period for the type of debt, whether the debt is based on an oral or  
5 written contract, and whether the debt is the result of a judgment.  
6

7 20. A debt that is past the statute of limitations can be revived if the  
8 consumer either makes a payment on the debt or states, in writing, an intention to  
9 pay the debt.  
10

11 21. A consumer has a dispositive affirmative defense to any legal action  
12 initiated to collect a past statute debt.  
13

14 22. Upon information and belief, the statute of limitations to bring a legal  
15 claim against an individual is six (6) years in New York.

16 23. Upon information and belief, Defendant maintains information about  
17 the statute of limitations for its collection accounts.  
18

19 24. Upon information and belief, Defendant trains its employees on how  
20 to collect past-statute debts, including instructing its collectors that the debt will be  
21 revived if a consumer makes a partial payment on such a debt.  
22

23 25. Upon information and belief, when a consumer cannot pay a debt in  
24 full, but can pay something, Defendant will enter into a payment plan with that  
25 consumer.



1        26. The least sophisticated consumer, like Plaintiff, is not put on notice  
2 that Defendant is attempting to collect a debt beyond the statute of limitations, and  
3 certainly does not realize that making a partial payment on a debt, or making a  
4 written promise to pay will, in many instances, revive the debt.

5  
6        27. Moreover, Defendant, by contacting Plaintiff regarding this past-  
7 statute debt, caused Plaintiff to believe that she could experience serious negative  
8 consequences, including being sued, if she failed to pay the debt.

9  
10        28. If Plaintiff knew, in connection with a past-statute debt, that  
11 Defendant had no legal means to enforce collection of the debt, or understood that  
12 making a partial payment or a written promise to pay would revive it, she would  
13 likely choose not to make a payment or a written promise to pay.

14  
15        29. Defendant deceptively withheld information about the legal status of  
16 the debt and its intentions to revive the statute of limitations on the debt so that it  
17 could cause Plaintiff to make a payment on the debt and/or give up her defenses to  
18 any legal action.

19  
20        30. The Federal Trade Commission administratively enforces compliance  
21 with the Fair Debt collection Practices Act.

22  
23        31. Recently, the United States Attorney General's Office, acting upon  
24 notification and authorization of the Federal Trade Commission, brought a  
25 Complaint for Civil Penalties, Injunctive and Other Relief against Asset



1 Acceptance, LLC, alleging, in part, a debt collection company violated the Fair  
2 Debt Collection Practices Act by failing to disclose, or failing to adequately  
3 disclose, that: (a) it cannot require through a lawsuit that consumers pay debts  
4 beyond the statute of limitations; and (b) if consumers make partial payments on  
5 these debts, the statute of limitations period will be renewed and a debt collector  
6 could again require through a lawsuit that consumers pay a total outstanding  
7 amount of these debts, which are facts that would be material to consumers in  
8 deciding whether to pay these debts in full or in part. United States of America v.  
9 Asset Acceptance, LLC, Civil Action No. 8:12-cv-00182-T-27EAJ (M.D. FL  
10 January 30, 2012).

11  
12  
13  
14 32. To resolve that complaint, a Joint Consent Decree was reached  
15 between the United States and Asset Acceptance, wherein, in part, Asset  
16 Acceptance will, at the time of its initial communication with a consumer in  
17 connection with the collection of a debt, for any debt that it knows or should know  
18 may be beyond the applicable statute of limitations, make the disclosure: “(1) when  
19 collecting on a debt where the debt is not past the date for obsolescence provided  
20 for in Section 605(a) of the Fair Credit Reporting Act, 15 U.S.C. §1681(c): The  
21 law limits how long you can be sued on a debt. Because of the age of the age of  
22 your debt, we will not sue you for it. If you do not pay the debt, we [Asset  
23 Acceptance, LLC], may [continue to] report it to the credit reporting agencies [as  
24  
25

unpaid]; (2) when collecting on a debt where the debt is passed the date for  
obsolescence provided for in Section 605(a) of the Fair Credit Reporting Act, 15  
U.S.C. §1681(c): The law limits how long you can sued on a debt. Because of the  
age of your debt, we will not sue you for it, and we will not report it to any credit  
reporting agency.”

33. On January 31, 2012, the Honorable James D. Whittemore Granted the  
Joint Motion for Entry of a Consent Decree.

34. As the administrative agency charged with enforcing the Fair Debt  
Collection Practices Act, the FTC has expressed its opinion that a debt collector’s  
withholding of information regarding the legal status of the debt and its intentions  
to revive the statute of limitations on the debt is violative of the FDCPA.

35. The repetitive calls and letters to Plaintiff were disturbing, harassing,  
an invasion of privacy.

36. Defendant conducted its collection activities in ways that were  
harassing and in violation of the FDCPA.

### CONSTRUCTION OF APPLICABLE LAW

30. The FDCPA is a strict liability statute. Taylor v. Perrin, Landry,  
deLaunay & Durand, 103 F.3d 1232 (5th Cir. 1997). “Because the Act imposes  
strict liability, a consumer need not show intentional conduct by the debt collector  
to be entitled to damages.” Russell v. Equifax A.R.S., 74 F. 3d 30 (2d Cir. 1996);

1 see also Gearing v. Check Brokerage Corp., 233 F.3d 469 (7th Cir. 2000) (holding  
2 unintentional misrepresentation of debt collector's legal status violated FDCPA);  
3 Clomon v. Jackson, 988 F. 2d 1314 (2d Cir. 1993).

4  
5 31. The FDCPA is a remedial statute, and therefore must be construed  
6 liberally in favor of the debtor. Sprinkle v. SB&C Ltd., 472 F. Supp. 2d 1235  
7 (W.D. Wash. 2006). The remedial nature of the FDCPA requires that courts  
8 interpret it liberally. Clark v. Capital Credit & Collection Services, Inc., 460 F. 3d  
9 1162 (9th Cir. 2006). "Because the FDCPA, like the Truth in Lending Act (TILA)  
10 15 U.S.C. §1601 *et seq.*, is a remedial statute, it should be construed liberally in  
11 favor of the consumer." Johnson v. Riddle, 305 F. 3d 1107 (10th Cir. 2002).

12  
13  
14 32. The FDCPA is to be interpreted in accordance with the "least  
15 sophisticated" consumer standard. See Jeter v. Credit Bureau, Inc., 760 F.2d 1168  
16 (11th Cir. 1985); Graziano v. Harrison, 950 F. 2d 107 (3<sup>rd</sup> Cir. 1991); Swanson v.  
17 Southern Oregon Credit Service, Inc., 869 F.2d 1222 (9th Cir. 1988). The FDCPA  
18 was not "made for the protection of experts, but for the public - that vast multitude  
19 which includes the ignorant, the unthinking, and the credulous, and the fact that a  
20 false statement may be obviously false to those who are trained and experienced  
21 does not change its character, nor take away its power to deceive others less  
22 experienced." Id. The least sophisticated consumer standard serves a dual  
23 purpose in that it ensures protection of all consumers, even naive and trusting,  
24  
25

1 against deceptive collection practices, and protects collectors against liability for  
2 bizarre or idiosyncratic interpretations of collection notices. Clomon, 988 F. 2d at  
3 1318.  
4

5  
6 **COUNT I**  
7 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES**  
8 **ACT**

9 33. Defendant violated the FDCPA based on the following:

- 10 a. Defendant violated of the FDCPA generally;
- 11 b. Defendant violated §1692d of the FDCPA by harassing Plaintiff in  
12 connection with the collection of an alleged debt;
- 13 a. Defendant violated §1692e of the FDCPA when it used false,  
14 deceptive or misleading representations or means in connection  
15 with the collection of a debt;
- 16 b. Defendant violated §1692e(2) of the FDCPA when it falsely  
17 represented the character, amount, or legal status of any debt;
- 18 c. Defendant violated §1692f of the FDCPA when it used unfair and  
19 unconscionable means in connection with the collection of a debt;  
20 and  
21
- 22 d. Defendant violated §1692f(1) of the FDCPA by collecting any  
23 amount not authorized by the agreement creating the debt or  
24  
25

1 permitted by law.

2 33. As a result of the above violations of the FDCPA, Defendant is liable  
3 to Plaintiff in the sum of Plaintiff's actual damages, statutory damages, and  
4 attorney's fees and costs  
5

6 WHEREFORE, Plaintiff, CHARLOTTE CASTELONIA, respectfully  
7 requests judgment be entered against Defendant, NCO FINANCIAL SYSTEMS,  
8 INC., for the following:  
9

- 10 a. Declaratory judgment that Defendant's conduct violated the Fair  
11 Debt Collection Practices Act,  
12  
13 b. Statutory damages pursuant to the Fair Debt Collection Practices  
14 Act, 15 U.S.C. § 1692k,  
15  
16 c. Actual damages,  
17  
18 d. Costs and reasonable attorneys' fees pursuant to the Fair Debt  
19 Collection Practices Act, 15 U.S.C. § 1692k  
20  
21 e. Any other relief that this Honorable Court deems appropriate.  
22  
23  
24  
25

**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiff, CHARLOTTE CASTELONIA,  
demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

DATED: 03/05/12

KIMMEL & SILVERMAN, P.C.

By: \_\_\_\_\_

Craig Thor Kimmel  
Attorney ID # 57100  
Kimmel & Silverman, P.C.  
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